

REMARKS

Claims 1-20 are pending. Claims 1-9 have been rejected. Claims 10-20 have been withdrawn.

The Office Action dated August 14, 2003 has been received and carefully noted. The above amendments and the following remarks are submitted as a full and complete response thereto. By this Amendment, claim 4 has been canceled and claim 1 has been amended to more clearly particularly point out and distinctly claim the invention. No new matter has been added.

Claims 1-9 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The Office Action asserts that the metes and bounds of amino acids that constitute the subtilin leader segment are unclear.

Applicant believes that this rejection is overcome with the above amendments to claim 1 in which the amino acids that constitute the subtilin leader segment are listed. For at least this reason, reconsideration and withdrawal of the rejection of claims 1-9 under 35 U.S.C. § 112, second paragraph, are respectfully requested.

Claims 1-6 are rejected under 35 U.S.C. § 112, first paragraph. In particular, the Office Action asserts that the claimed subject matter is not sufficiently described in the specification. Applicant has combined the subject matter of claims 7-9 into claim 1. As claims 7-9 were not rejected, it is respectfully submitted that the rejection of claims 1-6 under 35 U.S.C. § 112, first paragraph, is rendered moot. Reconsideration and withdrawal thereof are respectfully requested.

Claims 1-9 are rejected under 35 U.S.C. § 112, first paragraph. In particular, the Office Action asserts that the specification does not reasonably provide enablement for the scope of the presently claimed lantibiotic peptides.

Applicant believes that this rejection is overcome with the above amendments. Specifically, Applicant has canceled claim 4 and has incorporated the limitations of claim 4, and included a Markush group of the limitations from claims 7, 8, and 9 in claim 1. Applicant has further defined the subtilin leader segment and the lantibiotic peptide. Applicant respectfully submits that amended claim 1 is enabled by the specification. Consequently, reconsideration and withdrawal of the rejection of claims 1-9 under 35 U.S.C. § 112, first paragraph, are respectfully requested.

Claims 1-3 and 5-9 are rejected under 35 U.S.C. § 102 (a,b,e) as being anticipated by Hansen (U.S. Patent No. 5,516,682). Now canceled claim 4 has not been rejected under 35 U.S.C. § 102. The subject matter of claim 4 has been incorporated into claim 1. Claims 2-3 and 5-9 all ultimately depend from claim 1. Thus it is respectfully submitted that this rejection is rendered moot. Reconsideration and withdrawal of the rejection of claims 1-3 and 5-9 under 35 U.S.C. § 102 (a,b,e) are respectfully requested.


In view of the foregoing, reconsideration of the application, withdrawal of the outstanding rejections, allowance of claims 1-3 and 5-9, and the prompt issuance of a Notice of Allowability are respectfully solicited.

If this application is not in condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing docket number 108172-00057.**

Respectfully submitted,

ARENT FOX KINTNER PLOTKIN & KAHN PLLC



Richard J. Berman
Attorney for Applicant
Registration No. 39,107

Customer No. 004372
1050 Connecticut Avenue, NW, Suite 400
Washington, DC 20036-5339
Telephone: (202) 857-6000

RJB/RN:ksm